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**THE HON'BLE SMT.JUSTICE T.MEENA KUMARI**

**AND**

**THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY**

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**WRIT APPEAL No.1891 OF 2004**

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**Dt: 08.08.2005**

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**Between:**

The Registrar

Sri Venkateswara University

Tirupati, Chittoor District … APPELLANT

AND

Smt.G.Sarojamma

Working as Sweeper in Physical Education

Department, Sri Venkateswara University

Tirupati, Chittoor District and others … RESPONDENTS

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**JUDGMENT**: (per the Hon'ble Smt. Justice T.Meena Kumari)

This Writ Appeal is filed by the appellant-first respondent aggrieved by the Order, dated 28.01.2004, in Writ Petition No.3965 of 1993 passed by a learned single Judge of this Court.

The said Writ Petition was filed by the respondent-writ petitioner seeking a direction

to the respondents therein to pay her regular scale of pay from 09.06.1989 and to regularize her services.

The grievance of the writ petitioner is that she has been working as Sweeper on NMR basis in Physical Education Department of Sri Venkateswara University, Tirupathi, Chittoor District with effect from 21.03.1988 and was being paid a consolidated salary of Rs.740/- per month but was not put on regular scale of pay and her services were not regularized though she is entitled for the same. According to her, the nature of work performed by her is of permanent nature and therefore, it is unjust and unfair on the part of the appellant-University to keep her as a temporary employee on NMR basis without any attendant benefits as applicable to that of regular employees. It is stated that some attendants of appellant-University numbering more than 100 had earlier filed Writ Petition No.7351 of 1988 seeking a direction to the respondents therein to pay them the minimum scale on par with the regular employees and to regularize their services. The said Writ Petition was allowed by this Court directing the respondents therein to pay the regular scale of pay from the date of filing of the Writ Petition and on appeal, this Court modified the Order of the learned single Judge to the extent of payment of the arrears from the date of judgment instead of from the date of filing of the Writ Petition. Therefore, the writ petitioner seeks a similar direction i.e., for regularization of her services and to put her on regular scale of pay.

The appellant-University contested the matter by filing a counter-affidavit stating that considering the NMR services rendered by the writ petitioner, the Board of Management sanctioned the minimum pay scale of last grade employees fixing her pay at Rs.740/- per month without allowing scale of pay, but paying D.A. and H.R.A. admissible at University rates from 01.12.1992. Since she was not a party to Writ Petition No.7351 of 1988, she is not covered by G.O.Ms.No.357 dated 12.10.1992, which was issued in pursuance of the directions of this Court in the said Writ Petition. If she is granted any arrears of salary, it results in unbearable financial burden on the University. Since the writ petitioner was already given the pay scale as applicable to the regular employees together with D.A and H.R.A., she is not entitled for arrears from 09.06.1989, as she has approached at a belated stage and as her case was not considered under the said G.O. It is further asserted that she is not entitled for regularization of her services.

Learned single Judge after going into the merits of the case, disposed of the Writ

Petition directing the respondents therein to regularize the services of the writ petitioner and to treat her services as regularized from 01.12.1992 on which date, she was put on minimum time scale of Rs.740/- as applicable to the cadre of sweeper. Aggrieved by the same, the present Writ Appeal has been preferred.

We have perused G.O.Ms.No.357 dated 12.10.1992 which was issued in pursuance of the directions of this Court in Writ Petition No.7351 of 1988 by Order dated 09.06.1989, wherein certain conditions have been formulated for absorption of the writ petitioners therein. The first and foremost condition is that the candidates should have been appointed through Employment Exchange or covered by G.O.Ms.No.1261 LEN&TE Department dated 08.04.1984. Employment Exchange was notified of the vacancy and advertisement was made in papers and selection was made on merits. Another condition is that in the case of casual labourers who are to be absorbed as attenders etc., they will be absorbed on completion of five years or with effect from 09.06.1989 whichever is later.

It is brought to the notice of this Court by the learned counsel for the appellant-University that the services of the writ petitioner were regularized with effect from 01.03.2003.

It has to be observed that the writ petitioner has not completed five years of service as on 09.06.1989 and as on that date, she had completed only about one and half year service being her date of appointment is 21.03.1988. Therefore, she has not fulfilled the condition stipulated in the said G.O. In view of the same, the directions issued by the learned single Judge to treat the services of the writ petitioner as regularized with effect from 01.12.1992, cannot be sustained. However, the services of the writ petitioner are regularized with effect from 01.03.2003.

Under the above circumstances, the Writ Appeal is allowed setting aside the Order of the learned single Judge. No order as to costs.

**(T.MEENA KUMARI, J)**

**(P.LAKSHMANA REDDY, J)**

**Dt: 08.08.2005**

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